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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,728	08/05/2003	David M. Chess	YOR920030230US1	8862
29683	7590	03/27/2006	EXAMINER	
HARRINGTON & SMITH, LLP 4 RESEARCH DRIVE SHELTON, CT 06484-6212			CHOULES, JACK M	
			ART UNIT	PAPER NUMBER
			2167	
DATE MAILED: 03/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/635,728	Applicant(s) CHESS ET AL.	
	Examiner Jack M. Choules	Art Unit 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-33 are presented for examination. Claims 32 and 33 having been added by amendment filed 23 May 2005, this office action is in response to the amendment and arguments provided.

Response to Arguments

Applicant's argument filed 25 January 2006 directed to the rejections under 35 USC 101 have been considered and the examiner on reviewing the rejection and found that the rejection particularly as directed to claim 31 was based on "old law" particularly *Schrader* the examiner has reviewed the claims under the current controlling law *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. *State Street* requires that computer and data related claims explicitly set forth a **"useful, concrete and tangible result."** The results of this test are set forth here in below in new rejections under 101.

Applicant's arguments filed 25 January 2006 in respect to the rejections under 102 and 103 have been fully considered but they are not all persuasive as noted below.

The applicant stated that he did not sure what the examiner means by his arguments and statements directed to the terms generally and typically in the presumed definitions in the specification (page 5, lines 1, through 20), so the examiner will give an example. A person who rode a bus observed that a bus the person met every day for a week arrived 15 minutes late each day of the first week he could proper state that the

bus generally arrived 15 minutes late or that the bus typically arrived 15 minutes late, but when the person adjusted his schedule to also arrive 15 minutes later he missed the buss 3 out of the 5 days the next week because the fact a bus generally or typically is 15 minutes late does not mean on any particular day it will be late in fact it says nothing about what time it will arrive on days it is not 15 minute late and very little on how often there is an exception the generality. Similarly the examiner on reading the section of the specification the applicant points to the examiner finds the indefinite language that is used indicates that other forms of the invention fall within the language of the specification but not what these other forms may be or how many other forms there may be. The examiner is charged to give the broadest possible interpretation of the language of the claims in light of the specification, this section sets forth one interpretation of the meaning of "performance prediction data" with clear indication that other interpretations are acceptable with no indication of the meets and bounds of the other possible interpretations of the phrase "performance prediction data." The examiner does not understand why the applicant keeps quoting this section of the specification as the language used that this section was purposely written with indefinite language in every line so it would not be limiting to the claimed invention. Further in support of this conclusion the specification immediately following the portion cited by applicants the specification states "The foregoing definitions are not to be construed as being limitations on the practice of the of this invention, and are provided simply for the sake of clarity and convenience" (page 5 lines 18-21) Applicant quotes MPEP 2173.02 which states "Some latitude in the manner of expression and aptness of terms should

be permitted even though the claim language is not as precise as the examiner might desire.” The examiner responds that first the language in question is not claim language so this quote does not apply to the present situation. Second some latitude is not unlimited latitudes as to give credit to the interpretation apparently requested by the applicant the examiner would have to completely ignore the clear meaning and intention of the language of the specification. Third the term “should” gives the examiner the option and responsibility of deciding when it is appropriate to apply the directive; clearly it does not apply in the present case.

Applicants argued in respect to claim 1 that “Applicants' invention, the queries seek a particular category of data” which as the terms are defined in the specification is distinct from what is taught by Osborn's patent.

The examiner respectfully replies that the discussion on the terms “generally” and “typically” hereinabove is relevant here. Further the phrase defined “performance prediction data” is not found in claim 1 the examiner does not understand how this phrase is relevant to the language claims. The applicant in his arguments stated “the queries seek a particularly category of data—so called “performance prediction data” or “data relevant to the probability that a transaction with an entity will be successful.” The examiner is not sure exactly what the applicants intended by this statement are applicants trying to equate the term data with performance prediction data. If so this is clearly unfounded as the section of the specification cited discloses 2 types of data.

The phrase "data relevant to the probability that a transaction with an entity will be successful" is from the claims but the examiner does not understand why the applicant uses the phrase here. The phrase is not in the section of the specification and the examiner has not been able to find this phrase or meaningfully sub phrases defined anywhere in the specification. It has occurred to the examiner that the applicant may be trying to equate the phrase "data relevant to the probability that a transaction with an entity will be successful" with the phrase "performance prediction data" however the examiner finds no evidence to indicate that these phrases mean the same thing in the specification or for that matter in applicants arguments, there is only a suggestion of equivalence by putting the phrases next to each other with an or in the middle. Further the Prima Fascia evidence based on the clear meaning of the terms although the phrases may have some relation they are not equivalent. The phrase or example the apparent meaning "data relevant to the probability that a transaction with an entity will be successful" is broader at least in the aspects that although "performance prediction data" may be included in the predicting when a transaction will be successful other data not related to performance such as data relating to conditions not under the control of the businesses or other entity would still be relevant to the probability that a transaction be successful. Further immediately following the section cited by the applicant the specification clearly states "The foregoing definitions are not to be construed as being limitations on the practice of the of this invention, and are provided simply for the sake of clarity and convenience" (page 5 lines 18-21) so the examiner does not understand why the applicant seems to want the examiner to read the limitations from these

definitions into the claims. In the specific case of Osborn's teachings the database of Osborn is clearly a multi-user system as opposed to a personal database. A multi user system is owned by a entity (such as a individual, business, or other organization see the specification page 7 lines 1-3), for a user of the database the entity would be an entity or interest because he is interested in using the entities database. Database query is a transaction with the entity because it is preformed on the entities equipment. Further applicants argue (page 13 lines 10-17 of the current amendment) "that entity of interest," "specific user," and "specific product" are synonymous with specific entity (as this is synonymously disclosed by these elements) and specific entity is encompassed by entity of interest. It follows that specific product is encompassed by entity of interest. And since the database is a product is also encompassed in the phrase entity of interest directly. The data (the approximate time required for completion of the query or transaction which predicts if the query can be completed within the allowed time limit, Osborn column 1, lines 65-column 2, line 8) is related to the probability that the query (read transaction with database and by extension with database owner read entity of interest) will complete successfully. Further the specification (page 5, lines 3-5) describes "performance prediction data" as data that "is **typically** useful as an aid predicting in predicting the reliability, performance, or some such aspect of a business or other organization." The data of Osborn is useful in determining the reliability or some such aspect aspects (the time the equipment needs to perform the transaction when that time is related to if the task will be reliable completed) and thus fits the definition of performance prediction data as applied to an entity (as set forth above broader that

business as determined from specification and applicants argument see hereinabove). Further it is noted that the features upon which applicant relies as set forth above are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant further argues that the invention as set forth in claim 1 uses queries, which are concerned with subject matter actually sought by the queries, not as an ancillary process in contrast to Osborn.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., uses queries which are concerned with subject matter actually sought by the queries) are not recited in the rejected claim(s). Particularly the claim recites "a query component for receiving queries for data relevant to the probability that a transaction with an entity of interest will be successful" no where does the claim language indicate that the query is exclusively for data related to success or even that the claim is explicitly for data related to success the claim merely states it is "for" which could refer to the primary purpose of the claims or an ancillary purpose. Similarly the examiner finds no language in the claims related to whether the data is provided by a primary or ancillary process. As to the specification the examiner does not find any teaching there requiring such an interpretation. On the contrary the citation on page 5, lines 1-20 is responded to above based on its indefinite language. Further on page 5, lines 10-13,

the specification states that the data is “generated and returned to a user **in response to queries**, which are referred to herein, **for convenience only** as one of a “performance query” and a “meta query.” Since the label “performance query” is for convince only the label does not convey that the query is explicitly or exclusively for the retrieval of “performance prediction data” it simply set forth that the data is provided in response to a query. The applicant further refers to page 9 lines 6-23 that starts out by stating Another **example** of performance prediction data 133 and query relevant data 132 involves **the non-limiting context** of a rating system.” (Page 9, lines 6 and 7). Thus this citation is not a definition of any terms related to the claims but an example or embodiment that is in a non-limiting context. The examiner does not understand how an example in a non-limiting context should convey any meaning to the limitations of the claims. Further the cited section of the specification goes on to state “For example a potential buyer sends a performance query 121 to ascertain performance prediction information.” As previously discussed the performance query label is only for convenience and not limiting so this is interpreted as a query to ascertain performance prediction information again this citation does not state that this is the exclusive purpose of the claim or that it is even a purpose explicitly a query to ascertain performance prediction information simply that the claim is to return the information it may be the principle purpose of the claim but it also may be also a secondary non specified purpose handled by a ancillary process when examiner reviewers the evidence presented. The present case the Osborn query is for returning time data on the primary query even it the primary query is not to data related to the chance of a

successful transaction or “a query component for receiving queries submitted by users data relevant to the probability that a transaction with an entity of interest will be successful.” The claims even when construed in light of the specification for do not provide the limitations as the applicant argues.

The applicant argues in respect to the 102(B) rejection of claim 1 over Osborn that the Osborn patent merely showed the time and not the probability that a transaction will be a success.

The examiner respectfully argues that the length of time used by the query is “data relevant to the probability that a transaction with an entity of interest will be successful.” Using the query as a specific transaction and the database owner or operator as the entity of interest. The purpose of the invention of Osborn was to improve systems that timed out queries by returning the time to do the query so it could be determined what chance the query had of completing. “If a response is not returned in by the system before a preset time limit is reached, the DBMS abandons any further execution of the query, leaving the user with no result whatsoever,” and “Thus it would be desirable to provide an up-front estimation of the system response time required for returning a response time required for returning a response to an individual database query prior to their actual execution,” (column 1, lines 43-62). Thus the estimated time the query will run is “data relevant to probability that a transaction with an entity of interest (the entity being the owner or supplier of the database).

Applicant argues that Osborn does not suggest a “meta-query component” as claimed.

The examiner respectfully disagrees as Osborn (column 6, lines 37-64 and figure 3) shows that the query results in a returning of the types and times of the previous queries to “a query performance module (“QPP”)” where they all are used to produce an current estimated time based on the actual time of the past query. As the query returns data about previous queries (there actual execution time) it is a meta query, the portion of Osborn system that provides the time information from passed queries to the QPP is thus the Meta query-component. The claim language sets forth “a meta data for returning information regarding previously submitted queries” the execution time is information regarding previously submitted queries. The query that recalls the actual time from the history of previous queries thus fits the Meta query as set forth in claim 1.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the query must be concerned with the subject matter of the queries for the it can disclose a meta data component) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Again “information regarding previously submitted queries” does not specify that that information include subject matter of the queries. Indeed even in the specification the meta-query is described as requests such information a “aggregations or query related information (e.g., times and locations from which queries are received)” or “external information describing the date or time of query reception” set forth as a non limiting examples which show that even in the specification the meta data queries do not necessarily be concerned with the subject matter of the queries.

In reference to the rejection under 102(e) over Moore applicant argues in reference to claim 1 that information regarding previously submitted queries

Applicant argues that more does not suggest “a query component for receiving queries submitted by users for data relevant to the probability that a transaction with an entity of interest will be successful.”

The examiner respectfully replies it is clear that the system of Moore generates two states those matches that are returned, with a high probability of success, and non-matches that are not returned with a low probability of success (column 6, lines 41-67 and column 7 lines 1-17) this is data relevant to the probability of success as there is a higher probability of successes with someone that has indicated an interest in bartering that fits the users desired transaction. Further claim 1 states “data relevant to the probability...” not what the specific data is nor does the examiner find language in claim 1 requiring seeking any other information concerning a party to the barter such as the exercising of business judgment to decide to transact, nor any requirement for business

reputation information or a lack of trustworthiness even when read in light of the fair teachings of the specification.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the seeking of specific information such as exercising of business judgment to decide to transact, the requirement for business reputation information and lack of trustworthiness or reputation information indicative of trustworthiness) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that in respect the rejection of claim 1 over the Moore reference that Moore does not specify that the submission received from the user identify the entity of interest

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the submission identify the entity of interest) are not recited in the rejected claim 1. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim merely states the submission for data relevant to the probability that a transaction with an entity of interest will be successful.

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In Moore each individual business or other organization who has submitted a query searching to barter an item is a entity of interest and as set forth above as each is a prospective party for the transaction it user is seeking (Moore, column 6, lines 41-67 and column 7 lines 1-17). Clearly a query for returning data on multiple entities of interest also returns data on an entity of interest.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the exercising of business judgment to decide to transact, the requirement for business reputation information and lack of trustworthiness) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As to the arguments to the remaining claims they are all based the arguments directed the rejections of claim 1. Since the arguments directed to the rejection of claim 1 have been traversed and the rejections of claim 1 stand the rejections of all the other claims stand traversed also.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-14, 18-21 and 30-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As follows:

Claim 13-14, 18-21 and 30-33 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 13-14 are directed to a system including a program and a processor basically a computer system. Claims 18-21 and 30 are directed to storage containing computer program components. Claims 31 and 32 are directed to a system that is preformed based on the specification by some combination of software and hardware. These claimed inventions, as a whole must accomplish a practical application. That is, it must produce a **"useful, concrete and tangible result."** *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. In each of these cases the **result** is "making predictions concerning future performance of an entity of interest" (language from claim 13 but all the claims produce a result that is similar). The predictions are an abstraction as they are not **useful, concrete and tangible** they are not put in any tangible form and not useful because they are not presented to the user or to any other element of the system to provide some result that is of utility may exist in the specification however no specific use is provided for in the claimed invention (contrast this to other claims not rejected where the result is returned to the user). Thus the claims are non-statutory and stand rejected under §101 as not **producing a "useful, concrete and tangible result."**

Further as to claims 13 and 33 the claims are further rejected as under 101 because they recite computer program product on a computer readable media and the in no definition of media or medium in the specification thus the media set forth may be

interpreted as corresponding to any of the possible media including non tangible media such as transmission media including carrier waves and are further reasons these claims do not have results which are useful concrete and tangible further claim 33 is a product claim requiring a physical component. Examiner suggests the use of the language "storage media" in the claims to clarify that it is physical media.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 11-15, 18-22, and 25-33 are rejected under 35 U.S.C. 102(b) as being anticipate by Osborn et al. [hereinafter Osborn et al] US Patent No. 6,026,391.

As to claims 1, 13, 18, 20, 29, 30-33, Osborn et al. teaches a system comprising: "at least one memory"; (Fig. 1B, indexes 8-10) "a query component for receiving queries submitted by users" (column 6, lines 1-22) "for data relevant to the probability

that a transaction with an entity of interest will be successful” (column 6, lines 23-50 and column 1, lines 43-62 note the database would have an individual, business, or other organization who is owner or operator of the database as databases do not reproduce or spontaneously appear in the wild); “a data gathering component for storing relevant data about submitted queries” (column 6, line 51-67 and column 7, lines 1-16); and a meta-query component responsive to a meta-query for returning information regarding previously submitted queries” (column 7, lines 7-58); “at least one data processor” (fig. 1B, index 7). Using the text of claim 1, other claims rejected are considered to have similar element disclosed by the same prior art cited.

As to claims 2 and 19, Osborn et al. teaches a system further comprising: “a performance-prediction component that uses data comprising including the stored submitted query data in making estimations relevant to the likelihood of success of a transaction involving an entity will be successful” (column 7, lines 7-58 and column 1, lines 43-62). Using the text of claim 2, other claims rejected are considered to have similar element disclosed by the same prior art cited.

As to claim 11, Osborn et al. teaches a system further comprising: “the performance prediction component determines statistical correlations between patterns of submitted queries (column 7, lines 17-35).

As to claims 12, 14, 15, 21, and 22, Osborn et al. teaches a system further comprising: “where the performance prediction component further uses one of actual and predicted performance of entities, and uses the statistical correlations to predict likely future performance based on past and present query data” (column 7, lines 7-35).

As to claim 25, Osborn et al. teaches a system further comprising: "collecting query-relevant data comprising at least one of time, date, location, and identity" (column 6, lines 51-64).

As to claim 26, Osborn et al. teaches a system further comprising: "filtering the enhanced performance prediction information to remove at least some of the collected query-relevant data" (column 7 lines 7-58) only estimated time returned therefore rest of data was filtered.

As to claim 27, Osborn et al. teaches a system further comprising: "further comprising registering for automatically querying the acquired Knowledge" (column 2 lines 1-23 and column 7, lines 7-35) incorporating the QPP is considered registering for automatically querying.

As to claim 28, Osborn et al. teaches a system further comprising: "where automatic querying is initiated upon the occurrence of at least one specified criterion" (column 2 lines 1-23 and column 7, lines 7-35) the specified criterion is receiving a query from the user.

Claims 1, 2, 6-8, 11, 13, 18-20, 25, 26, and 29-33, are rejected under 35 U.S.C. 102(e) as being anticipate by Moore US Patent No. 6,847,938.

As to claims 1, 13, 18, 20, 29, 30, and 30-33, Moore et al. teaches a system comprising: "at least one memory" (figure 1, index 6); "a query component for receiving queries submitted by users for data relevant to the probability that a transaction with an entity will be successful" (column 6, lines 41-67 and column 7, lines 1-17) note the

search is for a entity that has entered the reciprocal search which would lead to a high probability of successful transaction between the user and entity; “a data gathering component for storing relevant data about submitted queries” (column 7, line 6-17); a meta-query component responsive to a meta-query for returning information regarding previously submitted queries” (column 6, lines 41-67 and column 7, lines 1-35) and “at least one data processor” (figure 1, index 5). Using the text of claim 1, other claims rejected are considered to have similar element disclosed by the same prior art cited.

As to claims 2 and 19, Moore teaches a system further comprising: “a performance-prediction component that uses data comprising including the stored submitted query data in making estimations relevant to the likelihood of success of a transaction involving an entity will be successful” (column 7, lines 18-35). Using the text of claim 2, other claims rejected are considered to have similar element disclosed by the same prior art cited.

As to claim 6, Moore teaches a system further comprising: “the meta-query component allows a user to register to be notified at some future time of submitted queries that are received about that user” (column 9, lines 41-63).

As to claim 7, Moore teaches a system further comprising: the meta-query component allows a user to register to be notified whenever a specified number of queries about that user have been submitted to the system (column 9, lines 41-63) the specified number of queries is one.

As to claim 8, Moore teaches a system further comprising: “the query component also comprises a discovery component that allows users to receive a list of entities that satisfy certain criteria. (column 7, lines 46-58 and column 9, lines 10-24).

As to claim 11, Moore teaches a system further comprising: “the performance prediction component determines statistical correlations between patterns of submitted queries (column 7, lines 18-25).

As to claim 25, Moore teaches a system further comprising: “collecting query-relevant data comprising at least one of time, date, location, and identity” (column 6, lines 41-63).

As to claim 26, Moore teaches a system further comprising: “filtering the enhanced performance prediction information to remove at least some of the collected query-relevant data” (column 10 lines 1-28) only estimated time returned therefore rest of data was filtered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3, 4, 9, 10, 16, 17, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore US Patent No. 6,847,938.

As to claims 3, 4, 16, 17, 23, and 24, Moore teaches a system further comprising: "the meta-query component returns" info from queries (column 9, lines 25-40).

Moore does not specify that this is a "copy" or "edited copy" of the claim. However, the recorded queries are essentially records being stored in a data base and it is known to return copies or edited copies of the claims in order to would have been obvious to one of ordinary skill in the art to provide a copy or edited copy as this would consist of simply displaying what is stored and in order to decide whether offer is acceptable applicant must see at least a portion of the query which would be provided by edited copy (column 9, lines 25-40) as is shown by claims.

As to claims 9 and 10, Moore does not teach "businesses," however, it would be obvious for "businesses" to be considered the users. It would have been obvious to one of ordinary skill in the DP art at the time of the applicant's invention as "businesses" would also find it useful to trade there recourses and or equipment. If the users are considered to be businesses then Moore discloses returning info on records matched to

users over a period of time (time from when query entered until records returned (column 9, lines 10-24 and 41-63). Further the it would be obvious to return records on queries not related to the business (or user) as that would merely be the records from the period not returned as related to the business and would be advantageous as the business would be able to see what the competition was up to.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore as applied to claim 1 above, and further in view of Kirkpatrick Patent Application Publication US 2002/0059258.

As to claim 5, Moore does not detail “an indication of a number of queries that have been submitted to the system during a particular time period”, however, Kirkpatrick describes a system where “an indication of a number of queries...” (page 4, paragraph [0037]).

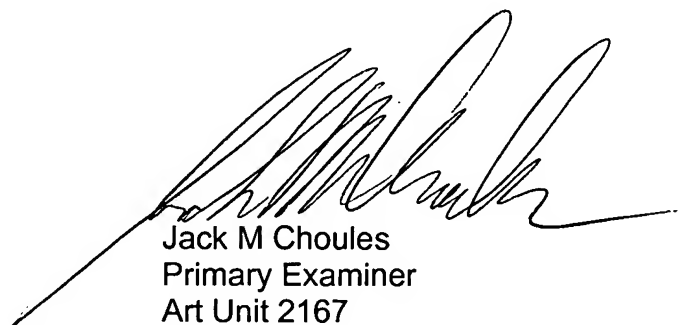
It would have been obvious to one of ordinary skill in the DP art at the time of the applicant's invention to combine Kirkpatrick with Moore because doing so allows the tracking of the number of queries entered or the number entered with a particular term

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack M. Choules whose telephone number is (571) 272-4109. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jean R. Homere can be reached on (571) 272-3780. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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